

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE SENATE

SENATE BILL NO. 1103

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO CHILD SUPPORT; AMENDING SECTION 5-245, IDAHO CODE, TO REVISE THE TIME FRAME DURING WHICH AN ACTION OR PROCEEDING TO COLLECT CHILD SUPPORT ARREARAGES CAN BE COMMENCED; AMENDING SECTION 10-1110, IDAHO CODE, TO REMOVE A QUALIFICATION AS TO THE JUDGMENT UNDER WHICH A LIEN ARISES AND TO REVISE THE TIME FRAME DURING WHICH A LIEN ARISING FROM THE DELINQUENCY OF THE PAYMENT DUE UNDER A RECORDED CHILD SUPPORT JUDGMENT CONTINUES; AMENDING SECTION 10-1111, IDAHO CODE, TO PROVIDE FOR THE RENEWAL OF A CHILD SUPPORT JUDGMENT AND THE DURATION OF THE LIEN ESTABLISHED THEREBY; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 5-245, Idaho Code, be, and the same is hereby amended to read as follows:

5-245. ACTIONS TO COLLECT CHILD SUPPORT ARREARAGES. An action or proceeding to collect child support arrearages ~~must, arising under an Idaho child support order, can be commenced within five (5) years after the child reaches the age of majority or within five (5) years after the child's death, if death occurs before the child reaches majority at any time prior to the expiration of the resulting judgment or any renewal thereof.~~ An action or proceeding under this section shall include, but is not limited to, execution on the judgment, order to show cause, garnishment, income withholding, income tax offset or lottery prize offset.

SECTION 2. That Section 10-1110, Idaho Code, be, and the same is hereby amended to read as follows:

10-1110. FILING TRANSCRIPT OF JUDGMENTS -- LIEN ACQUIRED. A transcript or abstract of any judgment or decree of any court of this state or any court of the United States the enforcement of which has not been stayed as provided by law, if rendered within this state, certified by the clerk having custody thereof, may be recorded with the recorder of any county of this state, who shall immediately record and docket the same as by law provided, and from the time of such recording, and not before, the judgment so recorded becomes a lien upon all real property of the judgment debtor in the county, not exempt from execution, owned by him at the time or acquired afterwards at any time prior to the expiration of the lien; provided that where a transcript or abstract is recorded of any judgment or decree of divorce or separate maintenance making provision for installment or periodic payment of sums for maintenance of children or alimony or allowance for wife's support, such judgment or decree shall be a lien only in an amount for payments so provided, delinquent or not made when due. The lien resulting from

1 recording of a judgment other than for support of a child continues five (5)
 2 years from the date of the judgment, unless the judgment be previously satis-
 3 fied, or unless the enforcement of the judgment be stayed upon an appeal as
 4 provided by law. A lien arising from the delinquency of a payment due under
 5 a ~~recorded~~ judgment for support of a child ~~after July 1, 1995,~~ issued by an
 6 Idaho court continues twenty-three (23) until five (5) years from the date
 7 of after the death or emancipation of the last child for whom support is owed
 8 under the judgment unless the underlying judgment be is renewed, is previ-
 9 ously satisfied or unless the enforcement of the judgment be is stayed upon
 10 an appeal as provided by law. Provided, that no lien for child support shall
 11 continue more than five (5) years after the child reaches the age of majority
 12 or five (5) years after the child's death, whichever shall first occur. If
 13 the recorded judgment is for the support of more than one (1) child, the lien
 14 shall continue until five (5) years after the youngest child reaches the age
 15 of majority or five (5) years after the death of the last remaining child,
 16 whichever shall first occur. The transcript or abstract above mentioned
 17 shall contain the title of the court and cause and number of action, names of
 18 judgment creditors and debtors, time of entry and amount of judgment.

19 SECTION 3. That Section 10-1111, Idaho Code, be, and the same is hereby
 20 amended to read as follows:

21 10-1111. RENEWAL OF JUDGMENT -- LIEN. (1) Unless the judgment has been
 22 satisfied, at any time prior to the expiration of the lien created by sec-
 23 tion 10-1110, Idaho Code, or any renewal thereof, the court which entered the
 24 judgment, other than a judgment for child support, may, upon motion, renew
 25 such judgment. The renewed judgment may be recorded in the same manner as the
 26 original judgment, and the lien established thereby shall continue for five
 27 (5) years from the date of judgment.

28 (2) Unless the judgment has been satisfied, and prior to the expiration
 29 of the lien created in section 10-1110, Idaho Code, or any renewal thereof,
 30 a court that has entered a judgment for child support may, upon motion, renew
 31 such judgment. The renewed judgment may be enforced in the same manner as the
 32 original judgment, and the lien established thereby shall continue for ten
 33 (10) years from the date of the renewed judgment.

34 SECTION 4. SEVERABILITY. The provisions of this act are hereby declared
 35 to be severable and if any provision of this act or the application of such
 36 provision to any person or circumstance is declared invalid for any reason,
 37 such declaration shall not affect the validity of the remaining portions of
 38 this act.

39 SECTION 5. An emergency existing therefor, which emergency is hereby
 40 declared to exist, this act shall be in full force and effect on and after
 41 its passage and approval, and retroactively to July 1, 2011, and shall apply
 42 to all orders currently being enforced by the Idaho Department of Health and
 43 Welfare Child Support Program such that any Idaho judgment for child support
 44 that would otherwise have expired since July 1, 1995, may be renewed on or
 45 before December 30, 2011.